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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re	) Case No. 2:23-bk-12707-VZ
)
	) Chapter 13
Fred Tucker,)
	) OBJECTION TO CONFIRMATION OF
Debtor.	) CHAPTER 13 PLAN
)
)
	) Confirmation Hearing:
	) Date: 7/22/2024
	) Time: 10:00 AM
	) Ctrm: 13th Floor, 1368
	) Place: 255 E. Temple Street,
	) Los Angeles CA
)
	) Judge: Vincent P. Zurzolo

1 PNC Bank, National Association, (“Secured Creditor”) in the above-entitled Bankruptcy
2 proceeding, hereby submits the following Objections to Confirmation of the Chapter 13 Plan
3 proposed by (“Debtor”) Fred Tucker.

4 1. Secured Creditor is entitled to receive payments pursuant to a Promissory Note
5 which matured on 2/1/2018 and is secured by a Deed of Trust on the subject property commonly
6 known as 1232 Via Landeta, Palos Verdes Estate, CA 90274. As of 5/3/2023, the approximate
7 amount in default was \$418,738.62. A Proof of Claim detailing the arrearages is forthcoming
8 and will be filed on or before the claims bar date. However, Secured Creditor submits the
9 following objections to timely preserve its rights and treatment under the proposed Plan.

10 2. Pursuant to the underlying security instruments, the loan matured 2/1/2018 with
11 the full amount becoming due and payable. Under 11 U.S.C. §1322(b)(2), b(5) and
12 1325(a)(5)(B), the proposed plan must provide for Secured Creditor’s total claim be paid in full
13 with interest during the bankruptcy under Class 3C. Instead, the proposed Plan only provides for
14 \$271,169.56 with no interest. The loan matured over 5 years ago. The interest rate under the
15 security instrument is 7.5%. Secured Creditor’s claim is secured by the first lien on Debtor’s
16 principal residence and as such may not be modified pursuant to 11 U.S.C. 1322(b)(2).

17 3. In order to cure the full debt of \$418,738.62 at 0% interest over 60 months,
18 Secured Creditor must receive a minimum payment of \$6,978.98 per month from the Debtor
19 through the Plan. According to Debtors Schedules I and J, it does not appear Debtor has
20 sufficient funds to pay the lien in full within 60 months. Therefore, the Plan is not feasible. A
21 true and correct copy of Debtors Schedules I and J is attached hereto as **Exhibit “1.”**

22 4. Unless otherwise ordered, under 11 U.S.C. § 1326(a)(1), the Debtor shall
23 commence making the payments proposed by the Plan within 30 days after the Petition is filed.
24 The Plan must comply with all applicable provisions of 11 U.S.C. § 1325 to be confirmed. As
25 such, the Plan cannot be confirmed.

26 5. Secured Creditor further advises that the Debtor is responsible for paying the
27 property taxes and homeowner’s insurance.
28
29

CONCLUSION

Any Chapter 13 Plan proposed by the Debtor must provide for and eliminate the Objections specified above in order to be reasonable and to comply with applicable provisions of the Bankruptcy Code. Secured Creditor respectfully requests that confirmation of the Chapter 13 Plan as proposed by the Debtor be denied, or in the alternative, be amended to provide for full payoff of the arrearages owed to Secured Creditor.

WHEREFORE, Secured Creditor prays as follows:

1. That confirmation of the Proposed Chapter 13 Plan be denied, or in the alternative, be amended to provide for full payoff of the loan owed to Secured Creditor within 60 months and to pay property taxes and homeowner's insurance;
2. For attorneys' fees and costs herein; and
3. For such other relief as this Court deems proper.

Respectfully submitted,

McCarthy & Holthus, LLP

6/7/2023

By: /s/ JaVonne M. Phillips
JaVonne M. Phillips, Esq.
Attorney for Secured Creditor

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
2763 Camino Del Rio S., Suite 100
San Diego, CA 92108

A true and correct copy of the foregoing document entitled (*specify*): **OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN; EXHIBITS** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 6/7/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

TRUSTEE

Nancy K Curry (TR)
ecfnc@trustee13.com

US TRUSTEE

ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 6/7/2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR(S)

Fred Tucker, 955 Deep Valley Dr, No: 2218, Rolling Hills, CA 90274

JUDGE'S COPY

The Honorable Judge, Vincent P. Zurzolo, United States Bankruptcy Court - Los Angeles Division, 255 E. Temple Street, Suite 1360, Los Angeles, Ca, 90012

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

6/7/2023

Date

Hue Banh

Printed Name

/s/ Hue Banh

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

ADDITIONAL SERVICE INFORMATION

BORROWER(S)

Zula Tucker, 1232 Via Landeta, Palos Verdes Estate, CA 90274